

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1-3, 5, 7-30 and 32-37 are pending.

In the outstanding Office Action, Claims 1-3, 5, 7-13, 16-25, 27-29 and 32-37 were rejected as being unpatentable over Cao et al. (U.S. Patent 6,647,005, hereinafter Cao) in view of Ozluturk et al. (U.S. Patent 7,710,929, hereinafter Ozluturk); and Claims 14 and 15 were rejected as being unpatentable over Cao in view of Ozluturk and in further view of Kim (U.S. Patent 7,450,611).

In reply, Applicant respectfully traverses the rejection.

Applicants also appreciatively acknowledge the courtesy extended by Examiner Daniel by holding a personal interview with the undersigned on May 16, 2011. The substance of this interview is reflected in the comments herein.

One thing that became clear from the interview, was whether any of the asserted references could reasonably be asserted as inherently or expressly applying forward error correction coding to update control information in CDMA systems. This is relevant because the basis of the Office Action's rejection is that one or more of the asserted references describes the application of forward error correction coding to update control information. Since Applicants disagree with this assertion, and it is impossible to prove a "negative" from the documents themselves, by referring to the documents, such situations require additional evidence to shed light on what is actually taught in these references. Accordingly, Applicants file herewith a Declaration under 37 C.F.R. §1.132 from Mr. Seiichi Izumi, who is one of ordinary skill in the wireless communication art. Mr. Izumi's observations and comments, after reviewing the outstanding Office Action and the asserted prior art, are found in his Declaration, and selected features from his Declaration are cited herein.

As was discussed in the Amendment filed March 21, 2011, and as explained in the personal interview of May 16, 2011, Claim 1 for example requires that forward error correction coding is applied to the combined user equipment specific update control information for the plurality of user equipment. As previously discussed, Cao describes an otherwise conventional CDMA system ¹ that would render Cao unfit for its intended purpose if forward error correction coding was applied to the update information because it would likely result in slower effective data rate relative to unencoded updated control information. ²This is because WCDMA requires the rapid transmission of the update information so as to avoid having unbalanced reception power levels at a base station and needs to be received/decoded by user equipment with limited processing resources. ³

The Office Action has now asserted Ozluturk as a secondary reference for the description at column 11, lines 27-46, that allegedly describes the forward error correction being applied to the update control information as claimed. However, this passage merely describes a CDMA system that uses forward error correction, but does not disclose applying forward error correction to update control information. ⁴ Nor does it describe applying forward error correction coding to update control information for a plurality of user equipment. Ozluturk is directed to a system that maximizes bandwidth utilization (column 1, lines 23 and 63; column 1, line 58-59; and column 2, lines 14-15). In fact Ozluturk at column 5, lines 37-39 explains that fast TCP updates are needed (i.e., at a kilohertz rate) to update an equal level of power reception at the base station. ⁵ Thus, this teaching is direct evidence that Ozluturk teaches away from applying forward error correction coding to combined user equipment specific update control information for a plurality of user equipment as claimed

¹ Izumi Declaration paragraph 14

² Izumi Declaration paragraph 14

³ Izumi Declaration paragraphs 11-13

⁴ Izumi Declaration paragraph 16

⁵ Izumi Declaration paragraph 16

since the application of forward error correction to update control information would slow-down not speed-up the TCP updates.⁶

The discussion at column 11, lines 38-40 does refer to forward error correction. However, this reference to forward error correction relates to traffic channels and not control channels. This construction of the language is supported at column 4, lines 25-35, which further explains the use of forward error correction in relation to traffic channels, but not control channels.⁷

Accordingly, it is respectfully submitted that no matter how Cao is combined with Ozluturk, the combination does not teach or suggest all of the elements of Claim 1, and specifically does not teach “forward error correction coding is applied to the combined user equipment specific update control information for the plurality of user equipment.” Although of differing statutory class and/or scope it is respectfully submitted that Claims 2-3, 5, 7-13, 16-30 and 32-37 also patentable define over Cao in view of Ozluturk for substantially the same reasons discussed above with regard to Claim 1.

Kim does not cure the deficiencies with regard to Cao and Ozluturk as was discussed in the March 21, 2011 Amendment. Accordingly, it is respectfully submitted that Claims 14-15 also patentably define over the asserted prior art.

⁶ Izumi Declaration paragraph 14

⁷ Izumi Declaration paragraph 17

Consequently, in view of the above remarks it is respectfully submitted that the invention defined by Claims 1-3, 5, 7-30 and 32-37 patentably define over the asserted prior art. The present application is therefore believed to be in condition for formal allowance and an early and favorable reconsideration of this application is therefore requested.

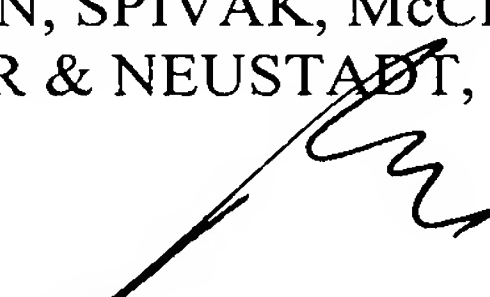
Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/09)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, L.L.P.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073